

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

Soverain Software, LLC,

28

CIVIL ACTION NO. 6:09-CV-274

Plaintiff,
v.

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**J.C. Penney Corporation, Inc.,
Amway Corp.,
Avon Products, Inc.,
Bidz.com, Inc.,
Etronics, Inc.,
HSN, Inc.,
HSN Improvements, LLC,
Cornerstone Brands, Inc.,
Ballard Designs, Inc.,
Garnet Hill, Inc.,
Smith & Noble, LLC,
The Territory Ahead, Inc.,
QVC, Inc.,
Shutterfly, Inc.,
Victoria's Secret Stores Brand
Inc.,
Victoria's Secret Direct Brand
LLC,
VistaPrint, Ltd., and
VistaPrint USA, Inc.,**

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**DEFENDANT BIDZ.COM, INC.'S
(A) ANSWER TO PLAINTIFF'S
COMPLAINT FOR PATENT
INFRINGEMENT AND (B)
COUNTERCLAIMS**

Defendants,

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DEMAND FOR JURY TRIAL

Bidz.com, Inc.,

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Counterclaimant.

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v

Soverain Software LLC

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Counterdefendant

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Defendant BIDZ.COM, INC. (“BIDZ”) files this Answer and Counterclaims in response to Plaintiff Soverain Software, LLC’s (“Plaintiff”) COMPLAINT FOR PATENT INFRINGEMENT (“COMPLAINT”).

1. BIDZ admits that paragraph 1 of the COMPLAINT refers to paragraphs 2-99, inclusive, of the COMPLAINT but denies each and every other allegation of paragraph 1 of the COMPLAINT.
2. BIDZ admits that civil action this arises under the patent laws of the United States, including 35 U.S.C. §100, et seq., but BIDZ denies each and every other allegation of paragraph 2 of the COMPLAINT.
3. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 3 of the COMPLAINT and therefore denies each and every allegation of paragraph 3 of the COMPLAINT.
4. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 4 of the COMPLAINT and therefore denies each and every allegation of paragraph 4 of the COMPLAINT.
5. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 5 of the COMPLAINT and therefore denies each and every allegation of paragraph 5 of the COMPLAINT.
6. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 6 of the COMPLAINT and therefore denies each and every allegation of paragraph 6 of the COMPLAINT.
7. BIDZ admits that BIDZ is a Delaware corporation with its principal place of business at 3562 Eastham Drive, Culver City, CA 90232 but BIDZ denies each and every other allegation of paragraph 7 of the COMPLAINT.
8. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 8 of the COMPLAINT and therefore denies each and every allegation of paragraph 8 of the COMPLAINT.

9. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 9 of the COMPLAINT and therefore denies each and every allegation of paragraph 9 of the COMPLAINT.
10. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 10 of the COMPLAINT and therefore denies each and every allegation of paragraph 10 of the COMPLAINT.
11. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 11 of the COMPLAINT and therefore denies each and every allegation of paragraph 11 of the COMPLAINT.
12. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 12 of the COMPLAINT and therefore denies each and every allegation of paragraph 12 of the COMPLAINT.
13. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 13 of the COMPLAINT and therefore denies each and every allegation of paragraph 13 of the COMPLAINT.
14. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 14 of the COMPLAINT and therefore denies each and every allegation of paragraph 14 of the COMPLAINT.
15. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 15 of the COMPLAINT and therefore denies each and every allegation of paragraph 15 of the COMPLAINT.
16. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 16 of the COMPLAINT and therefore denies each and every allegation of paragraph 16 of the COMPLAINT.
17. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 17 of the COMPLAINT and therefore denies each and every allegation of paragraph 17 of the COMPLAINT.

18. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 18 of the COMPLAINT and therefore denies each and every allegation of paragraph 18 of the COMPLAINT.
19. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 19 of the COMPLAINT and therefore denies each and every allegation of paragraph 19 of the COMPLAINT.
20. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 20 of the COMPLAINT and therefore denies each and every allegation of paragraph 20 of the COMPLAINT.
21. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 21 of the COMPLAINT and therefore denies each and every allegation of paragraph 21 of the COMPLAINT.
22. BIDZ admits the allegations of paragraph 22 of the COMPLAINT.
23. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 23 of the COMPLAINT and therefore denies each and every allegation of paragraph 23 of the COMPLAINT
24. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 24 of the COMPLAINT and therefore denies each and every allegation of paragraph 24 of the COMPLAINT
25. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 25 of the COMPLAINT and therefore denies each and every allegation of paragraph 25 of the COMPLAINT.
26. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 26 of the COMPLAINT and therefore denies each and every allegation of paragraph 26 of the COMPLAINT.

27. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 27 of the COMPLAINT and therefore denies each and every allegation of paragraph 27 of the COMPLAINT.
28. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 28 of the COMPLAINT and therefore denies each and every allegation of paragraph 28 of the COMPLAINT.
29. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 29 of the COMPLAINT and therefore denies each and every allegation of paragraph 29 of the COMPLAINT.
30. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 30 of the COMPLAINT and therefore denies each and every allegation of paragraph 30 of the COMPLAINT.
31. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 31 of the COMPLAINT and therefore denies each and every allegation of paragraph 31 of the COMPLAINT.
32. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 32 of the COMPLAINT and therefore denies each and every allegation of paragraph 32 of the COMPLAINT.
33. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 33 of the COMPLAINT and therefore denies each and every allegation of paragraph 33 of the COMPLAINT.
34. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 34 of the COMPLAINT and therefore denies each and every allegation of paragraph 34 of the COMPLAINT.
35. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 35 of the COMPLAINT and therefore denies each and every allegation of paragraph 35 of the COMPLAINT.

36. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 36 of the COMPLAINT and therefore denies each and every allegation of paragraph 36 of the COMPLAINT.
37. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 37 of the COMPLAINT and therefore denies each and every allegation of paragraph 37 of the COMPLAINT.
38. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 38 of the COMPLAINT and therefore denies each and every allegation of paragraph 38 of the COMPLAINT.
39. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 39 of the COMPLAINT and therefore denies each and every allegation of paragraph 39 of the COMPLAINT.
40. BIDZ denies each and every allegation of Paragraph 40 of the COMPLAINT.
41. BIDZ denies each and every allegation of Paragraph 41 of the COMPLAINT.
42. BIDZ denies each and every allegation of Paragraph 42 of the COMPLAINT.
43. BIDZ denies each and every allegation of Paragraph 43 of the COMPLAINT.
44. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 44 of the COMPLAINT and therefore denies each and every allegation of paragraph 44 of the COMPLAINT.
45. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 45 of the COMPLAINT and therefore denies each and every allegation of paragraph 45 of the COMPLAINT.
46. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 46 of the COMPLAINT and therefore denies each and every allegation of paragraph 46 of the COMPLAINT.

47. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 47 of the COMPLAINT and therefore denies each and every allegation of paragraph 47 of the COMPLAINT.
48. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 48 of the COMPLAINT and therefore denies each and every allegation of paragraph 48 of the COMPLAINT.
49. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 49 of the COMPLAINT and therefore denies each and every allegation of paragraph 49 of the COMPLAINT.
50. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 50 of the COMPLAINT and therefore denies each and every allegation of paragraph 50 of the COMPLAINT.
51. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 51 of the COMPLAINT and therefore denies each and every allegation of paragraph 51 of the COMPLAINT.
52. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 52 of the COMPLAINT and therefore denies each and every allegation of paragraph 52 of the COMPLAINT.
53. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 53 of the COMPLAINT and therefore denies each and every allegation of paragraph 53 of the COMPLAINT.
54. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 54 of the COMPLAINT and therefore denies each and every allegation of paragraph 54 of the COMPLAINT.
55. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 55 of the COMPLAINT and therefore denies each and every allegation of paragraph 55 of the COMPLAINT.

56. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 56 of the COMPLAINT and therefore denies each and every allegation of paragraph 56 of the COMPLAINT.
57. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 57 of the COMPLAINT and therefore denies each and every allegation of paragraph 57 of the COMPLAINT.
58. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 58 of the COMPLAINT and therefore denies each and every allegation of paragraph 58 of the COMPLAINT.
59. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 59 of the COMPLAINT and therefore denies each and every allegation of paragraph 59 of the COMPLAINT.
60. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 60 of the COMPLAINT and therefore denies each and every allegation of paragraph 60 of the COMPLAINT.
61. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 61 of the COMPLAINT and therefore denies each and every allegation of paragraph 61 of the COMPLAINT.
62. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 62 of the COMPLAINT and therefore denies each and every allegation of paragraph 62 of the COMPLAINT.
63. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 63 of the COMPLAINT and therefore denies each and every allegation of paragraph 63 of the COMPLAINT.
64. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 64 of the COMPLAINT and therefore denies each and every allegation of paragraph 64 of the COMPLAINT.

65. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 65 of the COMPLAINT and therefore denies each and every allegation of paragraph 65 of the COMPLAINT.
66. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 66 of the COMPLAINT and therefore denies each and every allegation of paragraph 66 of the COMPLAINT.
67. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 67 of the COMPLAINT and therefore denies each and every allegation of paragraph 67 of the COMPLAINT.
68. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 68 of the COMPLAINT and therefore denies each and every allegation of paragraph 68 of the COMPLAINT.
69. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 69 of the COMPLAINT and therefore denies each and every allegation of paragraph 69 of the COMPLAINT.
70. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 70 of the COMPLAINT and therefore denies each and every allegation of paragraph 70 of the COMPLAINT.
71. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 71 of the COMPLAINT and therefore denies each and every allegation of paragraph 71 of the COMPLAINT.
72. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 72 of the COMPLAINT and therefore denies each and every allegation of paragraph 72 of the COMPLAINT.
73. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 73 of the COMPLAINT and therefore denies each and every allegation of paragraph 73 of the COMPLAINT.

74. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 74 of the COMPLAINT and therefore denies each and every allegation of paragraph 74 of the COMPLAINT.
75. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 75 of the COMPLAINT and therefore denies each and every allegation of paragraph 75 of the COMPLAINT.
76. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 76 of the COMPLAINT and therefore denies each and every allegation of paragraph 76 of the COMPLAINT.
77. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 77 of the COMPLAINT and therefore denies each and every allegation of paragraph 77 of the COMPLAINT.
78. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 78 of the COMPLAINT and therefore denies each and every allegation of paragraph 78 of the COMPLAINT.
79. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 79 of the COMPLAINT and therefore denies each and every allegation of paragraph 79 of the COMPLAINT.
80. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 80 of the COMPLAINT and therefore denies each and every allegation of paragraph 80 of the COMPLAINT.
81. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 81 of the COMPLAINT and therefore denies each and every allegation of paragraph 81 of the COMPLAINT.
82. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 82 of the COMPLAINT and therefore denies each and every allegation of paragraph 82 of the COMPLAINT.

83. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 83 of the COMPLAINT and therefore denies each and every allegation of paragraph 83 of the COMPLAINT.
84. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 84 of the COMPLAINT and therefore denies each and every allegation of paragraph 84 of the COMPLAINT.
85. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 85 of the COMPLAINT and therefore denies each and every allegation of paragraph 85 of the COMPLAINT.
86. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 86 of the COMPLAINT and therefore denies each and every allegation of paragraph 86 of the COMPLAINT.
87. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 87 of the COMPLAINT and therefore denies each and every allegation of paragraph 87 of the COMPLAINT.
88. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 88 of the COMPLAINT and therefore denies each and every allegation of paragraph 88 of the COMPLAINT.
89. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 89 of the COMPLAINT and therefore denies each and every allegation of paragraph 89 of the COMPLAINT.
90. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 90 of the COMPLAINT and therefore denies each and every allegation of paragraph 90 of the COMPLAINT.
91. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 91 of the COMPLAINT and therefore denies each and every allegation of paragraph 91 of the COMPLAINT.

92. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 92 of the COMPLAINT and therefore denies each and every allegation of paragraph 92 of the COMPLAINT.
93. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 93 of the COMPLAINT and therefore denies each and every allegation of paragraph 93 of the COMPLAINT.
94. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 94 of the COMPLAINT and therefore denies each and every allegation of paragraph 94 of the COMPLAINT.
95. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 95 of the COMPLAINT and therefore denies each and every allegation of paragraph 95 of the COMPLAINT.
96. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 96 of the COMPLAINT and therefore denies each and every allegation of paragraph 96 of the COMPLAINT.
97. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 97 of the COMPLAINT and therefore denies each and every allegation of paragraph 97 of the COMPLAINT.
98. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 98 of the COMPLAINT and therefore denies each and every allegation of paragraph 98 of the COMPLAINT.
99. BIDZ lacks knowledge of information sufficient to form a belief about the truth of the allegations of paragraph 99 of the COMPLAINT and therefore denies each and every allegation of paragraph 99 of the COMPLAINT.

AFFIRMATIVE DEFENSES

As separate affirmative defenses to the COMPLAINT, on the grounds that such defenses are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery, BIDZ further alleges as follows:

FIRST AFFIRMATIVE DEFENSE

1. The COMPLAINT, and each purported claim or cause of action set forth therein, fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

2. The COMPLAINT, and each purported claim set forth therein, is barred by the doctrines of waiver, estoppel and/or laches.

THIRD AFFIRMATIVE DEFENSE

3. U.S. Patent Nos. 5,715,314, 5,909,492 and 7,272,639 (individually and collectively, the “SOVERAIN PATENTS”) are each invalid because each does not meet the requirements for patentability pursuant to 35 U.S.C. §§100, et seq., including but not limited to 35 U.S.C. §§101, 102, 103 and 112.

FOURTH AFFIRMATIVE DEFENSE

4. The SOVERAIN PATENTS are invalid and/or unenforceable because during the prosecution of each of the applications which matured into the SOVERAIN PATENTS one or more individuals associated with the filing and prosecution of each of the applications violated his, her or their duty of disclosure under 35 C.F.R. 1.56, by, inter alia, intentionally failing to disclose to the U.S. Patent and Trademark Office information known to the individual(s) material to the patentability of the claims in the applications.

FIFTH AFFIRMATIVE DEFENSE

5. The COMPLAINT, and each purported claim or cause of action set forth therein, is barred by the doctrine of unclean hands and the wrongful conduct of Plaintiff.

SIXTH AFFIRMATIVE DEFENSE

6. Plaintiff is precluded from recovering damages, if any, as a result of its failure to comply with the marking requirements of 35 U.S.C. §287(a) with respect to each of the SOVERAIN PATENTS.

SEVENTH AFFIRMATIVE DEFENSE

7. Plaintiff's purported claims and/or causes of action for patent infringement are each barred by the doctrine of prosecution history estoppel.

EIGHTH AFFIRMATIVE DEFENSE

8. Plaintiff's COMPLAINT, and each purported claim or cause of action alleged therein, is barred because Plaintiff has engaged in unfair or discriminatory enforcement of each of the SOVERAIN PATENTS.

NINTH AFFIRMATIVE DEFENSE

9. Plaintiff's COMPLAINT, and each purported claim or cause of action therein, is barred pursuant to the doctrines of abandonment and/or acquiescence with respect to each of the SOVERAIN PATENTS.

TENTH AFFIRMATIVE DEFENSE

10. Plaintiff's alleged injuries and damages, if any, were caused in whole or in part by its own conduct and not the conduct of BIDZ.

ELEVENTH AFFIRMATIVE DEFENSE

11. If the conduct of BIDZ constitutes conduct which is wrongful, BIDZ is an innocent actor and Plaintiff's damages, if any, were caused in whole or in part, by the conduct of third parties.

TWELFTH AFFIRMATIVE DEFENSE

12. Plaintiff has not suffered injury to its business or property by reason of any conduct by BIDZ that violated the patent laws or any other legal duty.

THIRTEENTH AFFIRMATIVE DEFENSE

13. The conduct of BIDZ constituted the lawful exercise of its legal rights, which did not violate the patent laws or any other legal duty.

FOURTEENTH AFFIRMATIVE DEFENSE

14. Plaintiff fails to state claims with sufficient particularity to enable BIDZ to ascertain those further and additional defenses that they may have in response thereto. BIDZ therefore reserves their right to assert all such further and additional defenses once the precise nature of Plaintiff's claims is ascertained through discovery.

DEFENDANT/COUNTERCLAIMANT BIDZ.COM, INC.'S COUNTERCLAIMS

Bidz.Com, Inc. ("BIDZ"), for its counterclaims against SOVERAIN SOFTWARE, LLC, ("SSLCC") alleges the following:

PARTIES

1. Defendant and Counterclaimant BIDZ is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 3562 Eastham Drive, Culver City, California 90232.
2. BIDZ is informed and believes and thereon alleges that Plaintiff and Counterdefendant SSLLC (1) is a Delaware limited liability company with its principal place of business at 233 South Wacker Drive, Suite 9425, Chicago, IL 60606 and (2) is the owner of all right, title and interest in and to U.S. Patents Nos. 5,715,314, 5,909,492 and 7,272,639 (individually and collectively, the "SOVERAIN PATENTS.")

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this counterclaim pursuant to 28 U.S.C. §§1331, 1332, 1338, 2201 and 2202. The amount of controversy in this action exceeds the sum or value of \$75,000.
4. The Court has personal jurisdiction over Plaintiff SSLLC because Plaintiff SSLLC has transacted and is transacting business in the Eastern District of Texas that

includes, but is not limited to, causing this civil action to be commenced against BIDZ and others in this Judicial District.

5. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§1391 and 1400.

FIRST CLAIM FOR RELIEF – DECLARATORY JUDGMENT

6. BIDZ incorporates by reference Paragraphs 1-5 above as if set forth in full.
7. BIDZ is seeking a declaratory judgment based upon non-infringement of the SOVERAIN PATENTS, and each of them, and invalidity of the SOVERAIN PATENTS, and each of them.
8. BIDZ is in the business of operating an auction website on the World Wide Web. Plaintiff SSLLC filed a civil action against BIDZ in the District Court for the Eastern District of Texas, Tyler Division, which has been assigned Case No. 6:09-CV-274. There is an actual controversy between BIDZ and SSLLC regarding alleged infringement and alleged validity and enforceability of the SOVERAIN PATENTS, and each of them, and BIDZ requests the Court to issue a declaration of the rights of the parties hereto vis-a-vis the SOVERAIN PATENTS, and each of them, including a declaration that BIDZ has not infringed the SOVERAIN PATENTS, and each of them, and that the SOVERAIN PATENTS, and each of them, are invalid and/or unenforceable.

DEMAND FOR JURY TRIAL

Defendant and Counterclaimant Bidz.com, Inc. requests a jury trial on all issues on which trial by jury is available.

PRAYER FOR RELIEF

WHEREFORE, BIDZ prays for the following relief:

1. That Plaintiff SSLLC's COMPLAINT and each purported claim or cause of action therein, be dismissed with prejudice, and that Plaintiff SSLLC's request for damages and other relief be denied in full;
2. That BIDZ be awarded its attorneys' fees, costs and expenses in this action pursuant to 35 U.S.C. §285 and all other applicable law;

3. That BIDZ be declared not to have infringed the SOVERAIN PATENTS, and each of them;
4. That the SOVERAIN PATENTS, and each of them, be declared invalid and/or unenforceable; and
5. That BIDZ be awarded such other and further relief as this Court may deem fair and just.

Respectfully submitted,

/s/ Deron R. Dacus

DERON R. DACUS

State Bar No. 00790553

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a). Therefore, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed.R.Civ.P. 5(d) and Local Rule CV-5(e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of this document via email, facsimile and/or U.S. First Class Mail this 27th day of August, 2009.

/s/ Deron R. Dacus

Deron R. Dacus